

[Waiver 1995-1]

May 9, 1995

William A. Lewis
Bilmark, Inc.
[Address withheld]

Re: Request for Waiver

Dear Mr. Lewis:

The Ethics Commission has reviewed your request for a waiver to permit you to participate in the bid process for the operation and management of the Twinbrook Liquor Store. In support of your request you indicated that you currently are employed at the Wheaton Liquor Store, located at 11407 Georgia Avenue, Wheaton, Maryland 20902. Further, you indicated that you would resign from County employment if you were chosen to operate the Twinbrook Liquor Store.

As you know, a public employee is prohibited from submitting a bid for a County contract. §19A-12(e) of the Montgomery County Code 1994. This provision may be waived upon a finding by the Ethics Commission that the following criteria have been met:

- (1) the best interests of the County would be served by granting the waiver;
- (2) the importance to the County of a public employee performing his or her duties outweighs the actual or potential harm of any conflict of interest;
and
- (3) granting the waiver will not give a public employee an unfair advantage over other members of the public.

§19A-8(a) of the Montgomery County Code.

Based upon your request, and additional information requested and received from the Department of Liquor Control (DLC) earlier this year, the Ethics Commission understands that the process to be utilized by DLC involves providing the bidders with the same information and that retail store employees are not involved in the design and preparation of the Request for Proposals (RFP), nor the review of the bids submitted in response to the RFP.

Accordingly, the Ethics Commission finds that the criteria have been met and grants your request for a waiver. The best interests of the County are served by increasing the pool of qualified competitors. Moreover, absent involvement in preparing and reviewing the RFP, the potential conflict is outweighed by the benefit of permitting qualified individuals to participate in bid process. Finally, because all competitors have

access to the same information, there is no unfair advantage to you over other members of the public.

The Ethics Commission, therefore, grants your waiver request with the following conditions:

1. You may not, as a public employee, participate in the evaluation of any proposals under the RFP.
2. While a public employee, you may not enter into any negotiations or contract with Montgomery County.
3. This waiver only applies to the RFP for the Twinbrook Liquor Store (#16309)

If you have any questions, please do not hesitate to contact the Ethics Commission.

Sincerely,
[signed]
JAY L. COHEN, Chair
Montgomery County Ethics Commission

cc: Barbara McNally, Executive Secretary, Montgomery County Ethics Commission